

DIVORCE WITHOUT CHILDREN: What to do with these Court Forms

If you are doing your own divorce, please read this. It will help you to know what to do with these court forms. Here are a few tips for filling out the forms:

- Always use full legal names, not nicknames.
- Type or print neatly. If you have access to the Internet, you may be able to fill out the forms on-line at www.ptla.org/forms.htm
- You will file each form with the Court. Before you do that, make at least two copies of your completed forms--one for yourself and one for your spouse. You will need to find a place to make copies (like a library). The court clerk cannot make copies for you.

STEP ONE: Fill Out the Forms

COMPLAINT FOR DIVORCE

The section at the top of the form is called the "caption." Fill in the location of the District Court (for example: "Bangor"). The clerk will fill in the Docket Number later. You are the Plaintiff and your spouse is the Defendant. Write your full legal name in the blank before "Plaintiff." Write your spouse's full name in the blank before "Defendant." If you or your spouse owns a house or other real estate or land, check the box next to "Title to Real Estate Involved." You should check this box **even if** title to real estate is only in one party's name. Fill in the other blanks on the form. Near the end, where it says "Plaintiff Requests....," check all the boxes that apply. (If you're not sure, check the box; you can drop that request later.)

FAMILY MATTER SUMMONS AND PRELIMINARY INJUNCTION

You must use the original summons you received from the clerk. It has the clerk's original signature and seal. You cannot use a photocopy or on-line version of this form.

Fill out the "caption" as you did on the Complaint.

Fill in the name and address of the court. Date and sign the form. Leave the spaces on the second page empty.

SOCIAL SECURITY NUMBER DISCLOSURE FORM

You are required by both State and Federal law to provide your social security number. This information is collected on the Social Security Number Disclosure form. After filing, this form will be placed in a confidential envelope in the court file.

STEP TWO: Serve the Forms

Now you must provide copies to your spouse. This is called "serving" the court papers. Court rules say you can do this in one of three ways: (1) You can give or mail the papers asking your spouse to agree to "service", and if your spouse agrees to this type of service, your spouse will sign the Acknowledgment of Receipt form; (2) you can send the papers by certified mail; (3) you can pay a sheriff to give the copies to your spouse.

Service by Acknowledgment

Mail or hand-deliver all of these papers to your spouse:

- Copy of Complaint
- Copy of Summons and Preliminary Injunction
- Two copies of Acknowledgment of Receipt of Summons and Complaint (after you have filled in the "caption" on both copies)
- Stamped, self-addressed envelope

The Acknowledgment of Receipt form must be signed by your spouse acknowledging that he/she received the papers, and must be returned to you within 20 days.

If you receive the signed Acknowledgment back within 20 days, go on to Step 3. If not, then you will

need to serve the papers by one of the other two ways.

Service by Certified Mail

Take these papers to the post office:

- Copy of Complaint
- Copy of Summons and Preliminary Injunction

Tell the postal clerk that you want to send the papers by certified mail. Make sure you ask for a "Return Receipt" and "Restricted Delivery." This costs more and involves a few extra steps. The certified mail forms are available at your post office. File the green card that you get back from the post office with the court clerk to prove that your spouse got the papers.

If you do not receive the green card confirming receipt of the mailing by your spouse, you will need to have the Sheriff serve your spouse.

Service by Sheriff

Mail or take to your county sheriff's office:

- Copy of Complaint
- The original Summons and Preliminary Injunction, plus one copy

In a letter, or in person, ask the sheriff's office to serve the papers on your spouse. Give your spouse's home address and/or work address. The deputy who "serves" the papers will complete page two of the Summons and return the original to you. The Sheriff charges for this service.

STEP THREE: File the forms

FAMILY MATTER SUMMARY SHEET

Fill out the Family Matter Summary Sheet. The clerk will not accept your papers for filing without this form.

After serving your spouse, hand deliver or mail the following original paperwork to the court clerk's office:

- Summary Sheet
- SSN Disclosure Form
- Complaint
- Summons (with deputy's signature if you used sheriff's service)
- Acknowledgment of Receipt (if you used service by mail)
- Green card (if you used certified mail service)

The Court charges a fee to file your papers. Later you may be charged a mediation fee (shared by the parties). Check with the court clerk for the exact fee amounts. If you cannot afford the court fees, you can ask the clerk for an Application to Proceed Without Payment of Fees and Indigency Affidavit. Fill out these forms, and sign them in front of a Notary Public. Then file the forms with the clerk along with your other papers. A judge will review your financial information and decide whether you qualify for a "fee waiver." If the waiver is denied, you must pay the filing fee within 7 days. If the waiver is granted, you won't have to pay some or all of the court fees.

Financial Statement: You must file a Financial Statement if you and your spouse disagree about how to divide your property, about spousal support (alimony), or about attorney's fees. This form is included in the packet. After you have filled it out, file the original with the clerk and send a copy to your spouse. You must do this by the date listed in the Scheduling Order (See Step Four). Your spouse must also file one of these forms and give you a copy.

Certificate in Lieu of Financial Statement: If there is no dispute about personal property, real estate, spousal support or attorney's fees, you should file the Certificate in Lieu of Financial Statement. This form is included in the packet. After you have filled it out, file the original with the clerk and send a copy to your spouse.

Real Estate: If you or your spouse owns real estate, you must provide the court with information about it in order to make sure that the title to the real estate will be clear after the divorce. Use the Certificate Regarding Real Estate (FM-056) that is in this packet. Fill it out and give the completed form to the court clerk before your court hearing.

STEP FOUR: Schedule

After your spouse files an answer, response or entry of appearance, the Court will issue a Scheduling Order that sets deadlines for filing documents and completing other pre-trial matters. You will receive a copy of this order in the mail. Mediation will be scheduled and you will be required to pay a mediation fee or file a request for waiver of this fee. A Trial Management Conference will be scheduled after the mediation date. (See Steps Five and Six).

If your spouse does not file an answer, response or entry of appearance, the clerk will schedule your case for an uncontested hearing. (See Step Six, (B).)

If you and your spouse come to an agreement, you can request that an uncontested hearing be scheduled by sending a letter of request to the clerk.

STEP FIVE: Mediation

If you and your spouse do not agree on all issues, your next step is mediation. You will be required to pay a mediation fee and it is generally split between you and your spouse. If you cannot afford the fee, you may file a request to waive this fee. The form is available from the court clerk.

At the mediation, a trained mediator will try to help the two of you understand where you agree and where you disagree. You must mediate in good faith. This means that you must attend and make an honest effort to resolve your disagreements. If there are still unresolved issues after the mediation, you may agree to a second mediation or go to a court hearing.

STEP SIX: Pre-trial Conference and Court Hearing

(A) If you and your spouse do not come to an agreement at mediation, you will need to have a Trial Management/Pretrial Conference to determine how much time the court will need to hear your case.

(B) If your spouse did not file a response to your complaint, or you came to an agreement at mediation, your case can be scheduled for an "uncontested hearing." The hearing must be at least 60 days after your spouse was served with the divorce complaint. You must fill out a Federal Affidavit form and file it with the clerk. This form is included in this packet. The judge will not hear your case until this affidavit is filed. You must sign this affidavit in front of a Notary Public.

(C) Once your case has been scheduled for a hearing, be prepared to testify and present evidence to support your positions. After hearing your case, the judge will decide the terms of your divorce.

HELPFUL RESOURCES

Video. Most courts have a video explaining the court process and your rights and responsibilities. If you would like to view this video, please contact the clerk.

Mediation. A mediator may be able to help you and the other party reach an agreement on issues relating to your case. The court has a video explaining what mediation is. Mediation can be arranged through the court or a private mediator.

For more information about these resources, speak with the court clerk or visit the Maine Judicial Branch website at: www.courts.state.me.us